

**RESOLUTION OF THE BOARD OF SUPERVISORS OF LOUDOUN COUNTY,
VIRGINIA, ADOPTING GRANDFATHERING RULES FOR ZOAM-2020-0001,
ZONING ORDINANCE REWRITE**

WHEREAS, on November 16, 2021, the Board of Supervisors of Loudoun County, Virginia (“Board”), adopted a resolution initiating amendments to the existing Loudoun County Zoning Ordinance, which is commonly referred to as the “Revised 1993 Loudoun County Zoning Ordinance” (“Revised 1993 Zoning Ordinance”); the primary purpose of the planned ordinance amendments was to implement the policies, strategies, and action items of the Loudoun County 2019 Comprehensive Plan; and

WHEREAS, the project to amend the zoning ordinance has been known as ZOAM-2020-0001, Zoning Ordinance Rewrite; and

WHEREAS, after a period of extensive public engagement, including input from affected regulatory agencies and departments, stakeholder groups, residents, business owners, and other interested parties, county staff prepared draft zoning ordinance text for consideration by the Planning Commission; and

WHEREAS, the Planning Commission conducted two public hearings and 24 work sessions (including subcommittee meetings) on the Zoning Ordinance Rewrite over a period of approximately ten months, culminating in the preparation of a revised draft zoning ordinance dated June 2, 2023; and

WHEREAS, on June 8, 2023, the Planning Commission forwarded (6-3: Barnes, Kirchner, and Miller opposed) the draft ordinance to the Board with a recommendation of approval, subject to additional revisions approved by the Planning Commission on June 5 and 8, 2023, and directed staff to compile a final Planning Commission Draft Zoning Ordinance for consideration by the Board; and

WHEREAS, on July 26, 2023, the Board conducted a public hearing on the Planning Commission Draft Zoning Ordinance, dated July 6, 2023; and thereafter conducted eight work sessions during which it considered additional revisions to the draft; and

WHEREAS, at its final work session on October 30, 2023, the Board directed staff to prepare a final draft zoning ordinance, reflecting all revisions endorsed by the Board during its eight work sessions (“Final Draft Zoning Ordinance”), for final consideration by the Board at a second public hearing; and

WHEREAS, on December 13, 2023, the Board of Supervisors conducted a public hearing on the Final Draft Zoning Ordinance dated November 21, 2023; upon the close of the public hearing, the Board adopted an ordinance (i) adopting the Final Draft Zoning Ordinance as amended by any changes or corrections approved by the Board at the time of adoption; (ii) repealing and replacing the Revised 1993 Zoning Ordinance; and (iii) re-ordaining and recodifying the newly adopted ordinance as the Loudoun County Zoning Ordinance, as may be amended from time to time (the “New Zoning Ordinance”); and

WHEREAS, the Board has determined that the orderly transition from the Revised 1993 Zoning Ordinance to the New Zoning Ordinance would be assisted by the implementation of rules allowing development applications that were officially accepted for review, in accordance with applicable County ordinances and policies, on or before the effective date of the New Zoning Ordinance to be processed under the provisions of the Revised 1993 Zoning Ordinance (“Grandfathering Rules”); and

WHEREAS, Section 1.02.G of the New Zoning Ordinance provides, in part, that the “Board of Supervisors may establish grandfathering provisions by resolution adopted contemporaneously with this Zoning Ordinance or any amendment”; and

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of Loudoun County, Virginia that:

1. Subject to the terms and conditions of this resolution, legislative and administrative applications that have been officially accepted for review in accordance with applicable Loudoun County ordinances and policies on or before December 13, 2023 (“Effective Date”), may continue to be processed under the land use and development regulations prescribed in the Revised 1993 Zoning Ordinance (i.e., grandfathered), provided the applicant does not make any substantial modification(s) to such application (as defined in Paragraph 6 below). Upon approval, a grandfathered application will be treated for purposes of the New Zoning Ordinance as if the application had been approved prior to the Effective Date.

2. The following legislative applications that have been officially accepted for review as of the Effective Date may be eligible for grandfathering under this resolution: zoning map amendments, zoning concept plan amendments, special exceptions, minor special exceptions, zoning modifications, sign development plans, and variances. Applications for Zoning Conversion in the Route 28 Tax District (commonly known as ZRTD) are not eligible for grandfathering under this resolution.

3. A legislative application will be considered officially accepted for review when (i) all minimum submission requirements identified on the applicable checklist have either been satisfied as determined by Department of Planning and Zoning (DPZ) staff or waived by the Director of DPZ; and (ii) the applicable application fee has been received by the County.

4. The following administrative applications that have been officially accepted for review as of the Effective Date may be eligible for grandfathering under this resolution: site plans and construction plans and profiles (including amendment and revision applications), preliminary subdivision plats and record plats, boundary line adjustments, easement and dedication plats, and zoning permits.

5. An administrative application will be considered officially accepted for review when (i) all required or minimum submission items identified on the applicable checklist have been satisfied as determined by Department of Building and Development staff; and (ii) the applicable application fee has been received by the County.

6. For purposes of this resolution, a “substantial modification” is a modification made to a pending application after the Effective Date that:

- (a) Changes or adds proposed uses;
- (b) increases proposed density or Floor Area Ratio;
- (c) changes or increases the land area subject to such application;
- (d) conflicts with a new or amended regulation in the New Zoning Ordinance, unless such modification was requested by or made in response to a comment from County staff in an official referral or review memorandum; or
- (e) otherwise requires a legislative application to be remanded to the Planning Commission for further consideration, as determined by the Office of the County Attorney.

7. An application may retain its grandfathered status for so long as the applicant diligently pursues approval of such application, as prescribed below. An application is not diligently pursued and, therefore, will lose its grandfathered status under the following circumstances:

- (a) For legislative applications, (i) the applicant fails to resubmit application materials for further review or consideration within six months after a request for resubmission by the assigned project manager for the application (“Project Manager”); (ii) the applicant fails to submit any reports or other materials in support of an application within six months after request for such materials by the Project Manager; (iii) the applicant fails timely to provide the requisite notices for a scheduled public hearing; (iv) the applicant fails to submit application materials (e.g., updated plans or proffers, etc.) for a scheduled public hearing, work session, business meeting or committee meeting (as applicable) within the prescribed meeting deadlines as determined by the Office of the County Administrator; or (v) an application is either withdrawn or becomes inactive in accordance with Section 10.01.H and I of the New Zoning Ordinance.
- (b) For administrative applications, (i) the applicant fails to resubmit application materials for further review or consideration within six months after request for resubmission by the Project Manager; (ii) the applicant fails to submit any reports or other materials in support of an application within six months after request for such materials by the Project Manager; (iii) an application is either withdrawn by the applicant or becomes inactive in accordance with Section 1242.15 of the Land Development Subdivision Ordinance (LSDO); or (iv) the applicant fails to submit application materials that comply with all applicable zoning ordinance, LSDO and/or Facilities Standards Manual (FSM) regulations within three years after the Effective Date.

8. If an application loses its grandfathered status due to a substantial modification as defined in Paragraph 6 or for the applicant's failure to diligently pursue approval as prescribed in Paragraph 7, the Project Planner will provide written notice to the applicant that the application is no longer grandfathered. Thereafter, the application must comply with all applicable requirements of the New Zoning Ordinance, as it may be amended.

9. The grandfathering rules prescribed in this resolution apply only to zoning ordinance requirements. Nothing in this resolution is intended to, nor shall be interpreted as grandfathering any applicable regulations under the LSDO, the FSM or any other development ordinance.

10. This resolution may be referenced on application materials and supporting documents for any grandfathered application as the "ZOR Grandfathering Resolution".

Phyllis J. Randall, Chair
Board of Supervisors of Loudoun County, Virginia

The undersigned Clerk of the Board of Supervisors of Loudoun County, Virginia, certifies that the foregoing Resolution was adopted by the Board of Supervisors on December 13, 2023.

WITNESS my signature and the seal of the Board of Supervisors of Loudoun County, Virginia, this ____ day of _____ 2023.

Clerk, Board of Supervisors of
Loudoun County, Virginia